

Assembly Bill No. 1034

CHAPTER 474

An act to amend Section 54988 of the Government Code, and to amend Sections 17958.8, 17980, 17980.1, 17991, and 17992 of, to amend and renumber Section 17980.8 of, and to add Sections 17960.10 and 17980.11 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 22, 2003. Filed
with Secretary of State September 22, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1034, Mullin. Housing: building standards.

(1) Existing law authorizes the legislative body of a city, county, or city and county to collect any fee, cost, or charge incurred in the correction of any violation of specified provisions of law or regulations regarding untenable dwellings, fire safety, and building standards.

This bill would additionally authorize the collection of fees, costs, or charges incurred in the correction of any violation of specified regulations or ordinances.

(2) Local ordinances or regulations governing alterations and repair of existing buildings are required to permit the replacement, retention, and extension of original materials and the use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the California Building Standards Code and other requirements are met.

This bill would require the above described local ordinances or regulations to permit the replacement, retention, and extension of original materials and the use of original methods of construction for any building or accessory structure, including a hotel, lodginghouse, motel, apartment house, or dwelling, as long as the portion of the building or accessory structure that is subject to the replacement, retention, or extension of original materials and the use of original methods of construction comply with the building code provisions governing that portion of the building or accessory structure at the time of its construction and other requirements governing the building or accessory structure at that time are met.

(3) The State Housing Law requires the housing or building department or, if there is no building department, the health department, of every city, county, or city and county, or a specified environmental agency to enforce within its jurisdiction all of the State Housing Law, the

building standards published in the State Building Standards Code, and other specified rules and regulations. If there is a violation of these provisions or any order or notice that gives a reasonable time to correct that violation, or if a nuisance exists, an enforcement agency is required, after 30 days' notice to abate the nuisance, to institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance. A violation of the State Housing Law, related published building standards, or any other rule or regulation adopted pursuant to the law is a misdemeanor.

This bill would authorize a notice to abate with a shorter time if deemed necessary by the enforcement agency to prevent or remedy an immediate threat to the health and safety of the public or occupants. It would also authorize the building department, housing department, or health department enforcing any of the State Housing Law to develop a list of agencies that finance or assist residential rehabilitation or repair activities for property owners or renters. It would also authorize the staff of that department to provide written or oral referrals in conjunction with, or as a result of, any inspection, notice of violation, or other activity.

The bill would revise the provisions requiring an enforcement agency to institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance, as specified.

(4) Existing law authorizes the execution of an order requiring a building to be retrofitted to local building standards if a building is identified by a city, city and county, or county pursuant to specified provisions of existing law as being potentially hazardous to life in the event of an earthquake or is identified for any other reason to be hazardous to life in the event of an earthquake if specified conditions are satisfied. If the conditions have not been satisfactorily remedied or removed within the time fixed in an abatement order, a court is required to appoint a receiver who is required to post a bond.

This bill would instead authorize the execution of an order requiring a building to be retrofitted to local building standards or repaired so as not to violate any law, regulation, or ordinance applicable to the maintenance and use of the building if a building is identified pursuant to the above described provisions or is identified pursuant to the State Housing Law as being in a condition that substantially endangers the health and safety of the residents.

This bill would deem a receiver acting under the general direction of the enforcement agency a public officer for purposes of exempting that receiver from requirements related to the posting of a bond and would make conforming changes.



(5) Existing law authorizes an enforcement agency, under specified circumstances, to seek an order to prohibit the owner from claiming any deduction with respect to state taxes for interest, taxes, expenses, depreciation, or amortization paid or incurred with respect to a cited structure.

This bill would authorize an enforcement agency to require the private owner of a specified residential structure to provide the enforcement agency with prescribed personal identifying information, including a social security number, if the enforcement agency anticipates that it will pursue specified remedies against the owner.

The people of the State of California do enact as follows:

SECTION 1. Section 54988 of the Government Code is amended to read:

54988. (a) (1) In addition to any other remedy provided by law, including the current powers of charter cities, the legislative body of a city, county, or city and county may collect any fee, cost, or charge incurred in any of the following:

(A) The abatement of public nuisances.

(B) The correction of any violation of any law, regulation, or local ordinance that would also be a violation of Section 1941.1 of the Civil Code.

(C) The enforcement of zoning ordinances adopted pursuant to Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 or any other constitutional or statutory authority.

(D) Inspections and abatement of violations of Article 1 (commencing with Section 13100) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code and regulations or ordinances adopted pursuant to that article.

(E) Inspections and abatement of violations of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code) and regulations or ordinances adopted pursuant to that part.

(F) Inspections and abatement of violations of the California Building Standards Code (Title 24 of the California Code of Regulations).

(G) Inspections and abatement related to local ordinances and regulations that implement any of the foregoing.

If the fee, cost, or charge has not been paid within 45 days of notice thereof, the city, county, or city and county may collect the fee, cost, or charge by making the amount of the unpaid fee, cost, or charge a



proposed lien against the property that is the subject of the enforcement activity.

Except as provided in subdivision (c), the amount of the proposed lien may be collected at the same time and in the same manner as property taxes are collected. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.

(2) The amount of any fee, cost, or charge shall not exceed the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

(3) This section shall not apply to owner-occupied residential dwelling units.

(4) This section does not apply to any enforcement, abatement, correction, or inspection activity regarding a violation in which the violation was evident on the plans that received a building permit.

(b) (1) A city, county, or city and county shall provide the owner of the property with written notice in plain language of the proposed lien, a description of the basis for the amounts comprising the lien, a minimum of 45 days after notice to pay the fee, cost, or charge, and an opportunity to appear before the legislative body and be heard regarding the amount of the proposed lien. The notice shall be mailed by certified mail to the last known address of the owner of the property.

(2) In any city, county, or city and county, the legislative body may delegate the holding of the hearing required by paragraph (1) to a hearing board designated by the legislative body. The hearing board may be the housing appeals board established pursuant to Section 17920.5 of the Health and Safety Code or any other body designated by the legislative body. The hearing board shall make a written recommendation to the legislative body which shall include factual findings based on evidence introduced at the hearing. The legislative body may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the legislative body. Notice in writing of the de novo hearing shall be provided to the property owner at least 10 days in advance of the scheduled hearing.

(c) If the legislative body determines that the proposed lien authorized pursuant to subdivision (a) shall become a lien, the body may



also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the county recorder of the county in which the property is situated and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

SEC. 2. Section 17958.8 of the Health and Safety Code is amended to read:

17958.8. Local ordinances or regulations governing alterations and repair of existing buildings shall permit the replacement, retention, and extension of original materials and the use of original methods of construction for any building or accessory structure subject to this part, including a hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, as long as the portion of the building and structure subject to the replacement, retention, or extension of original materials and the use of original methods of construction complies with the building code provisions governing that portion of the building or accessory structure at the time of construction, and the other rules and regulations of the department or alternative local standards governing that portion at the time of its construction and adopted pursuant to Section 13143.2 and the building or accessory structure does not become or continue to be a substandard building.

SEC. 3. Section 17960.10 is added to the Health and Safety Code, to read:

17960.10. The building department, housing department, or health department enforcing any of the provisions of this part may develop a list of public or publicly funded private agencies that finance or assist residential rehabilitation or repair activities for real property owners or renters. Notwithstanding any other provision of law, the staff of that department may provide written or oral referrals to any of those financing or assistance agencies in conjunction with, or as a result of, any inspection, notice of violation, or other activity and may include on the list any loan or grant program operated by the city, county, or city and county employing that staff.

SEC. 4. Section 17980 of the Health and Safety Code is amended to read:

17980. (a) If any building is constructed, altered, converted, or maintained in violation of any provision of, or in violation of any order or notice that gives a reasonable time to correct that violation issued by an enforcement agency pursuant to this part, the building standards published in the California Building Standards Code, or other rules and



regulations adopted pursuant to this part, or if a nuisance exists in any building or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate the nuisance or violation, or a notice to abate with a shorter period of time if deemed necessary by the enforcement agency to prevent or remedy an immediate threat to the health and safety of the public or occupants of the structure, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

(b) (1) Whenever the enforcement agency has inspected or caused to be inspected any building and has determined that the building is a substandard building or a building described in Section 17920.10, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building. The enforcement agency shall not require the vacating of a residential building unless it concurrently requires expeditious demolition or repair to comply with this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part. The owner shall have the choice of repairing or demolishing. However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair. The enforcement agency may require vacation and demolition or may itself vacate the building, repair, demolish, or institute any other appropriate action or proceeding, if any of the following occur:

(A) The repair work is not done within the period required by the notice.

(B) The owner does not make a timely choice of repair or demolition.

(C) The owner selects an option which cannot be completed within a reasonable period of time, as determined by the enforcement agency, for any reason, including, but not limited to, an outstanding judicial or administrative order.

(2) In deciding whether to require vacation of the building or to repair as necessary, the enforcement agency shall give preference to the repair of the building whenever it is economically feasible to do so without having to repair more than 75 percent of the dwelling, as determined by the enforcement agency, and shall give full consideration to the needs for housing as expressed in the local jurisdiction's housing element.

(c) (1) Notwithstanding subdivision (b) and notwithstanding local ordinances, tenants in a residential building shall be provided copies of any of the following:

(A) The notice of any violation described in subdivision (a) that affects the health and safety of the occupants and that causes the building



to be substandard pursuant to Section 17920.3 or in violation of Section 17920.10.

(B) An order of the code enforcement agency issued after inspection of the premises declaring the dwelling to be in violation of any provision described in subdivision (a).

(C) The enforcement agency's decision to repair or demolish.

(D) The issuance of a building or demolition permit following the abatement order of an enforcement agency.

(2) Each document provided pursuant to paragraph (1) shall be provided to each affected residential unit by the enforcement agency that issued the order or notice, in the manner prescribed by subdivision (a) of Section 17980.6.

(d) All notices issued by the enforcement agency to correct violations or to abate nuisances shall contain a provision notifying the owner that, in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year. In addition, in Los Angeles County, the notice shall contain a provision notifying the owner that within 10 days of recordation of a notice of substandard conditions or similar document, the owner is required to comply with Section 17997.

(e) The enforcement agency may charge the owner of the building for its postage or mileage cost for sending or posting the notices required to be given by this section.

SEC. 5. Section 17980.1 of the Health and Safety Code is amended to read:

17980.1. (a) If a building is identified by a city, city and county, or county pursuant to Article 4 (commencing with Section 19160) of Chapter 2 of Part 3 of Division 13, or Section 8875.2 of the Government Code as being potentially hazardous to life in the event of an earthquake or is identified for any other reason to be hazardous to life in the event of an earthquake, or is identified as being in a condition that substantially endangers the health and safety of residents pursuant to Section 17980.6, an order requiring the building to be retrofitted to local seismic building standards or repaired so as not to violate any law, regulation, or ordinance applicable to the maintenance and use of the building, may be executed by the enforcement agency or its agents or contractors if all of the following conditions are satisfied:

(1) The hazardous condition is of a nature that would endanger the immediate health and safety of residents or the public in the event of an earthquake.



(2) The extent and nature of a hazardous condition related to seismic safety is such that it could be corrected with the application of current technology.

(3) Any abatement order of the enforcement agency is not complied with or not so far complied with as the enforcement agency may regard as reasonable, within the time therein designated.

(b) If the owner does not comply with the abatement order within a reasonable time after issuance of the order, the enforcement agency may, as an alternative to any other remedy permitted under law, seek the remedy provided by this section if the court finds the owner in violation of the abatement order and finds that the abatement order was issued in order to correct a hazardous condition which would endanger the immediate health and safety of residents or the public in the event of an earthquake or because of any violation of this part.

(c) After serving notice upon the owner not less than 48 hours prior to the filing of the application in accordance with the procedures for notice specified by this subdivision, the enforcement agency, in accordance with this section, Sections 17980.1 to 17980.3, inclusive, and Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, may thereafter apply to the superior court in the county where the property is situated by petition for an order directing the owner and any mortgagees or lienors of record to show cause why an individual or group as proposed by the enforcement agency should not be appointed as a receiver, and why the receiver should not remove or remedy the condition and obtain a lien, as provided in Section 17980.2, in favor of the enforcement agency against the property, with the lien having the priority as specified in subdivision (b) of Section 17980.2, to secure repayment of the costs incurred by the receiver in removing or remedying the condition. The application shall contain all of the following:

(1) Proof by affidavit that an abatement order of the enforcement agency has been issued and served on the owner, mortgagees, and lienors in accordance with this section, and that the notice containing the same particulars as are required in the abatement order, including the work to be done, has been filed in the office of the county recorder in which mechanic's liens affecting the property would be filed.

(2) A statement that the abatement order has not been complied with or not so far complied with as the enforcement agency may regard as reasonable within the time period therein designated.

(3) A statement that a condition that constitutes a serious hazard and is a serious threat to life, health, or safety continues to exist upon the property, and a description of the property and the factors constituting the unsafe condition.



(4) A plan describing how the receiver shall perform the required work, and how rents, issues, and profits shall be collected and distributed among the owner, mortgagee, lienor, and enforcement agency or receiver, and including an estimate as to the costs of the required work, the approximate time when the repairs will be completed, a statement as to whether a displacement of any occupant is required, and provisions regarding assistance for displaced occupants.

(d) The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy thereof and the papers on which it is based on the owners and mortgagees of record and lienors. Alternative service may be made upon the owner by posting upon the property and thereafter mailing to the owner at the last known address, and upon the mortgagee or lienor by mailing to the address set forth in the recorded mortgage or lien and by publication in a newspaper of general circulation in the county where the premises are located. The service shall be completed on filing proof of service thereof in the office of the county clerk.

(e) On the return of the order to show cause, the proceeding regarding that order shall have precedence over every other business of the court, unless the court finds that some other pending proceeding, having a similar statutory precedence, shall have priority. If the court finds good cause therefor, and finds that the cost of repairs, when added to any valid encumbrances on the building, shall not exceed the projected value of the building when repaired, then the court shall appoint a receiver named in the application or another person deemed appropriate, in accordance with this section and Section 17980.2. However, prior to the appointment of a receiver, if the owner or any mortgagee or lienor or other person having an interest in the property applies to the court to be permitted to remove or remedy the conditions, and demonstrates the ability promptly to undertake the work required, and posts security for the performance thereof within the time, and in the amount and manner deemed necessary by the court, then the court may, in lieu of appointing the receiver, issue an order permitting that person to perform the work within a time fixed by the court.

(f) If the conditions have not been satisfactorily remedied or removed within the time fixed in the abatement order, then the court shall appoint a receiver. If, after granting a court order permitting a person to perform the work, but before the time fixed by the court for the completion thereof, it appears to the enforcement agency that the person permitted to do the work is not proceeding in a timely fashion, the enforcement agency may petition the court for a hearing to determine whether a receiver should be appointed immediately. On the failure of the owner, mortgagee, lienor, or other person having an interest in the property to



complete the work in accordance with the provisions of the order, the costs of the receiver thereafter appointed in removing or remedying the condition, and for other charges herein provided for, shall be reimbursed, paid, or made subject to a lien pursuant to Section 17980.2, or any combination of these.

(g) Upon the appointment of a receiver by the court, which shall include the posting of a bond by the receiver, pursuant to subdivision (b) of Section 567 of the Code of Civil Procedure, a copy of the order making the appointment, authenticated by a certificate of the clerk of the court and particularly describing the property which is subject to the receivership, shall be recorded in each county in which any portion of the land is located. However, if the court determines that the receiver will be acting under the general direction of the enforcement agency, the receiver may be deemed a public officer pursuant to Section 995.220 of the Code of Civil Procedure.

(h) In addition to the powers specifically requested by the enforcement agency for the receiver, the receiver shall be authorized to employ attorneys, accountants, contractors, architects, engineers, and other clerical and professional personnel to assist the receiver in the performance of these duties and responsibilities.

(i) Notwithstanding Section 6103 or 27383 of the Government Code, a county clerk or county recorder, or clerk of the court may charge a fee to any party, including a public agency, for the cost, incurred pursuant to this section, of filing, recording, or authentication of documents at the request of that party.

SEC. 6. Section 17980.8 of the Health and Safety Code, as added by Section 2 of Chapter 1194 of the Statutes of 1989, is amended and renumbered to read:

17980.10. (a) An enforcement agency that properly declares any dwelling a nuisance and, using the notice requirements and procedures specified in Subchapter 1 (commencing with Section 1) of Chapter 1 of Part 1 of Title 25 of the California Code of Regulations, confirms the declaration by resolution of its governing board shall be deemed to have acquired jurisdiction to abate the nuisance by repairing or causing to have repairs made to the property, by razing or removing the dwelling or in any other way causing the nuisance to be abated.

(b) The enforcement agency shall keep an itemized account of all of the expenses involved in abating the nuisance, including the razing or removing of the dwelling. The enforcement agency shall cause to be posted conspicuously on the property where the nuisance was abated, repairs were made, or where the dwelling was razed or removed, an expense statement. This statement shall be verified by the officer of the enforcement agency in charge of doing the work, showing the reasonable



gross and net expense of the abatement actions taken by the agency, including the expense of inspections; repairs, if any; the cost of the razing or removing of the building, if applicable; and any other costs of abatement, together with a notice of the time and place when and where the statement shall be submitted to the governing board of the enforcement agency for approval and confirmation. In addition to being posted on the property, this statement shall be sent by certified mail to each owner and other interested party, as specified in Subchapter 1 (commencing with Section 1) of Chapter 1 of Part 1 of Title 25 of the California Code of Regulations.

(c) At the meeting noticed pursuant to subdivision (b), the governing board shall consider any objections or protests, if any, that may be raised by the property owner liable to be assessed for the cost of the work, or by any other interested persons. If the governing board confirms the statement of costs of abatement, those costs shall be the obligation of each owner of the property to pay to the public entity that has incurred them.

(d) Notwithstanding any other provision of law, any hearing required under this section shall be conducted in accordance with requirements adopted by the enforcement agency that are in substantial compliance with those contained in Chapter 13 (commencing with Section 1301), or the successor provisions to that chapter, of the most recent edition of the Uniform Housing Code of the International Conference of Building Officials or as specified in Subchapter 1 (commencing with Section 1) of Chapter 1 of Part 1 of Title 25 of the California Code of Regulations.

SEC. 7. Section 17980.11 is added to the Health and Safety Code, to read:

17980.11. If an enforcement agency has recorded with a county recorder any notice of substandard or untenable conditions issued pursuant to this part for a residential structure, and if the enforcement agency anticipates that it will pursue the remedies provided by subdivision (b) of Section 17980.7 or subdivision (c) of Section 17980.9, or Section 17274 or 22436.5 of the Revenue and Taxation Code, it may require the private owner of that structure, within 10 days of recordation, to submit to the enforcement agency the following information:

(a) If the property owner is an individual, the name, address, driver's license number or identification card number, social security number or tax identification number, and any other information deemed necessary by the enforcement agency to file the documents necessary to utilize Section 17274 of the Revenue and Taxation Code.

(b) If the property owner is a corporation, trust, real estate trust, or any other entity whose taxes are subject to Part 11 (commencing with



Section 23001) of the Revenue and Taxation Code, the name, address, tax identification number, and any other information deemed necessary by the enforcement agency to file the documents necessary to utilize Section 22436.5 of the Revenue and Taxation Code.

(c) If the property owner is a limited liability company, partnership, limited partnership, trust, or real estate investment trust, or any other entity which has owners, partners, members, or investors whose state taxes are subject to Part 10 (commencing with Section 17001) of the Revenue and Taxation Code and whose income, deductions, or tax credits are subject to any change because of interest payments, taxes, depreciation, or amortization related to the substandard housing, the name, address, driver's license number or identification card number, social security number or tax identification number, and any other information deemed necessary by the enforcement agency to file the documents necessary to utilize Section 17274 of the Revenue and Taxation Code.

SEC. 8. Section 17991 of the Health and Safety Code is amended to read:

17991. (a) The sale or other transfer of property to a third party shall not render moot an administrative or judicial action or proceeding pursuant to this article, including an action under Section 17982, instituted by an enforcement agency, or a receiver on behalf of an enforcement agency, against the owner of record on the date a citation for, or other notice of, a violation of this part was issued.

(b) In the event of any sale or other transfer of property to a third party during the period between the issuance of the notice of violation and the abatement of the violation, or any administrative or judicial actions related thereto, within five days after the sale or transfer occurs, the transferor shall record a Notice of Conveyance of Substandard Property with the county recorder where the property is located, identifying the name and address of the buyer of transferee and executed with a signature that the information is true and correct, under penalty of perjury.

(c) In the event of any sale or other transfer of property to a third party during the period between the issuance of the notice of violation and the abatement of the violation, or any administrative or judicial actions related thereto, the transferor shall provide all of the following information to the enforcement agency with five days after the sale or transfer occurs:

(1) If the seller or transferor is not an individual person, the name, address, and driver's license number or identification card number of each individual who has an interest in excess of 5 percent in the entity which is selling or transferring the property.



(2) If the buyer or transferee is an individual person, the name, address, and driver's license number or identification number of that individual.

(3) If the buyer or transferee is not an individual person, the name, address, and driver's license number or identification card number of each individual who has an interest in excess of 5 percent in the entity that is the buyer or transferee of the property.

SEC. 9. Section 17992 of the Health and Safety Code is amended to read:

17992. Any person who obtains an ownership interest in any property after a notice of pendency of an action or proceeding was recorded with respect to the property pursuant to Section 17985 or any other notice of a violation of this part was recorded with the county recorder of the county in which the property is located, and where there has been no withdrawal or expungement of the notice, shall be subject to any order to correct a violation, including time limitations, specified in a citation issued pursuant to Sections 17980 and 17981 or any other notice of a violation of this part that was recorded with the county recorder of the county in which the property is located.

